

CITY OF LOGAN, UTAH

ORDINANCE NO. 23-34

**AN ORDINANCE AMENDING SECTIONS 2.48.010, 2.48.020, 2.48.030, 2.48.040,
2.48.050, 2.48.060, 3.04.010, 3.04.020, 3.04.030, 3.04.040, 3.04.050, 3.04.060, AND 3.04.070
OF THE LOGAN MUNICIPAL CODE**

WHEREAS, the state legislature has granted power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the City of Logan to pass ordinances which are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants; and,

WHEREAS, the City Council has determined that the attached ordinance is in the City's best interest,

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN, UTAH, AS ATTACHED:

Effective Date. The attached ordinance shall become effective upon publication.

ADOPTED BY THE LOGAN MUNICIPAL COUNCIL THIS _____ DAY OF NOVEMBER 2023, BY THE FOLLOWING VOTE:

AYES:

NAYS:

ABSENT:

Ernesto López, Chairman

ATTEST:

Teresa Harris, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval on the _____ day of ___, 2023.

Ernesto López, Chairman

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby _____ this _____ day of
_____ 2023.

Holly H. Daines, Mayor

3.04.010: System Adopted
3.04.020: Definitions
3.04.030: Administration
3.04.040: Procedure
3.04.050: Contracts
3.04.060: Exemptions To Competitive Bidding Requirements
3.04.070: Budget Officer
3.04.080: City Retains Certain Discretion
3.04.090: Purchases Of Real Property
3.04.100: Prohibited Acts; Disciplinary Action

3.04.010: SYSTEM ADOPTED:

Pursuant to Utah code section 10-8-2 and other pertinent provisions of the laws of the state, there is adopted and established a purchasing system for the city which shall be based on the principles set out in this chapter. (Ord. 14-75, 2014)

3.04.020: DEFINITIONS:

Unless the context requires otherwise, the terms used in this chapter, or the rules and regulations adopted pursuant to this chapter, shall have the following meanings:

ADEQUATE APPROPRIATION BALANCE: Sufficient fund balance existing in the appropriation item against which the purchase order is to be charged.

BID: An offer, submitted by a bidder, to furnish supplies, materials, equipment, other personal property, or contractual services in conformity with the specifications, delivery terms and conditions, and other requirements included in the invitation for bids or otherwise required by the city.

BIDDING: The procedure used to solicit quotations on price and delivery from various prospective suppliers of supplies, materials, equipment, other personal property, or contractual services.

CONTRACTUAL SERVICES: Professional and nonprofessional service contracts entered into for the accomplishment of a particular project or a limited period of time.

EMERGENCY PURCHASE: A purchase for a significant event involving the risk of life, property or essential government service where the failure to act immediately could exacerbate the emergency situation.

ESTIMATES OF REQUIREMENTS: Forecasts of future requirements of supplies, equipment, materials, other personal property, or contractual services submitted by city departments or representatives upon request of the mayor or the mayor's designee.

FORMAL COMPETITIVE BIDDING: The process by which written and sealed, or electronically sealed bids are solicited by publication of notice and are read at a designated bid opening with a specific date and time.

OPEN MARKET PROCEDURES: Purchasing goods or services from the open market by, whenever possible, obtaining at least three (3) bids. This bid solicitation can be done by department heads, division managers, or their designees. The goal of open market procedures is to obtain substantially equal goods and services at the lowest possible price.

PUBLIC PROPERTY: Any item of real or personal property owned by the city.

PURCHASE ORDERS: Official documents used in authorizing the commitment of city funds toward the purchase of supplies, materials, equipment, other personal property, or contractual services.

REQUISITIONS: Electronic forms used by departments or other authorized city representatives to request a purchase order by providing detailed information as to quantity, description, estimated price, possible supplier and authorization for requested purchases.

RESPONSIBLE BIDDER: A bidder who has proven by experience or information furnished to the satisfaction of the purchasing agent that his or her current financial resources, production or service facilities, service or reputation, and experience are adequate to make satisfactory delivery of supplies of acceptable quality, equipment or contractual services on which she or he bids; and who has not violated or attempted to violate any provisions of this chapter. (Ord. 14-28, 2014)

3.04.030: ADMINISTRATION:

The purchasing agent shall administer the purchasing system provided by this chapter. By virtue of the statutes provided in this chapter and by other applicable laws, the purchasing agent shall perform the duties and have powers concerning purchasing matters as follows:

- A. Administer and maintain the purchasing system according to the rules and regulations established or authorized by this chapter and other ordinances;
- B. Recommend to the mayor and council additional rules and regulations or changes from time to time that the purchasing agent considers desirable, and to interpret, with legal advice, the provisions of this chapter and applicable statutes;
- C. Negotiate and recommend execution of contracts for the purchase of supplies, materials, equipment, or contractual services after consultation with department directors, division managers and other responsible city agents;
- D. Seek to obtain as full and open competition as possible either by bidding or negotiation on all city purchases;
- E. Keep informed of current developments in the field of purchasing, i.e., prices, market conditions, new products, etc.;
- F. Prescribe and maintain such forms as are reasonably necessary to the operation of this chapter and other rules and regulations;

- G. Supervise the inspection of all city purchased equipment to assure conformance with specifications;
- H. Maintain a bidders' list, vendors' catalog file and other records needed for the efficient operation of the purchasing system;
- I. Supervise the maintenance of the inventory system. (Ord. 14-28, 2014)

3.04.040: PROCEDURE:

- A. Open Market Procedures: All purchases, regardless of price over five thousand dollars (\$5,000.00), shall be made in compliance with open market procedures. Evidence of compliance with Open Market Procedures must be maintained by the department making the purchase. Purchases below the Open Market Procedures threshold may be made without competitive price quotations if the price is reasonable. Effort should always be made to obtain the best value for the product or services purchased.
- B. Purchase Orders: All services, contracts, supplies, materials, and equipment of a value of more than five-ten thousand dollars (\$510,000.00) shall be purchased with the authority of a written purchase order. Written documentation of compliance with open market procedures must accompany all purchase orders. Purchases that by their nature are made without a purchase order include travel reimbursements, training, airline reservations, hotel reservations, membership fees, and-maintenance contracts, and other written agreements. Other contracts or similar purchases may be exempted from the purchase order requirement with the authorization of the mayor and purchasing agent.
- C. Annual Purchase Orders: Annual purchase orders may be established for standard goods and services ordered periodically by one or more departments throughout a fiscal year. Annual purchase orders are established by the purchasing agent at the beginning of a fiscal year and are valid for all purchases made during that fiscal year. Such items as pipe, fencing material, gravel, concrete, etc., are applicable. An annual purchase order may be established for a specific vendor and is only good for those specific items listed on the purchase order.
- D. Formal Competitive Bidding: If the purchase price exceeds fifty-one hundred thousand dollars (\$5100,000.00), formal competitive bidding procedures shall be used unless such purchases are made for an inventory warehouse. Inventory warehouse purchases can be made using open market procedures. The purchasing agent shall call for competitive bids by giving reasonable notice of the city's intent to receive sealed bids, describing therein the requested property or services needed, and the place where bid blanks and specifications may be obtained as well as the place, date and time when bids will be received and/or opened. In the case of CMGC, formal bidding procedures may be performed by the selected contractor under the direction of the purchasing agent.

1. Publication Of Notice: Unless otherwise required by state law, bids may be invited by one or more of the following: a single publication in a local newspaper, by mailing invitations to interested qualified bidders, electronic notification (facsimile or e-mail) to interested vendors, posting of the bid or proposal package on the city website, or posting of the bid or proposal package on an online procurement notification system selected by the purchasing agent. A minimum of three (3) bidders, where applicable, will be solicited. Bids are accepted in a manner determined by the purchasing agent.

2. Firm Bids: All bids submitted to the city shall be open for acceptance for a period of ten (10) days following bid openings.

3. Rejection Of Bids: The city may reject without cause any or all bids and may readvertise for bids pursuant to the procedure described in this chapter.

4. Payment And Performance Bonds: Before entering into a contract the purchasing agent may require a one hundred percent (100%) payment and performance bond from the successful bidder. The bond must be furnished to the city purchasing division upon awarding of a contract. A payment and performance bond shall be required on public works construction projects.

5. Bid Bonds: The purchasing agent may require as a condition of bidding a bid bond or a cashier's check in lieu thereof in the amount of five percent (5%) of the amount bid. A bid bond ~~shall~~may be required on public works construction projects. Note: The security mentioned above may be submitted in the form of a bond, certified or cashier's check or other security satisfactory to the city.

E. Award Of Bids: Except as otherwise provided in this chapter the city shall accept the bid of the lowest responsible bidder.

F. Award To Other Than Low Bidder: When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the department head and submitted to the purchasing agent and filed with the other papers relating to the transaction.

G. Noncompliant Purchases: Purchases that are not in compliance with the purchasing system must be documented in writing. The documentation must include the reason for the noncompliance and must be signed by the department head, and the mayor. Failure to follow the purchasing system may result in disciplinary action.

H. Bidder Eligibility: Bidders who are involved in a pending claim or litigation or have threatened same against the city may be disqualified from doing business with the city when determined to be in the best interest of the city. This disqualification may apply to a bidder or a subcontractor or supplier of the bidder. (Ord. 14-28, 2014)

3.04.050: CONTRACTS:

A. Contractual Service Contracts; Procedure: Contracts for contractual services may be awarded by use of open market procedures or competitive bidding. Wherever practical, competitive bidding shall be used.

B. Award Of Contracts: Contracts shall be awarded at the discretion of the mayor based on the evaluation of professional qualifications, service ability, cost of service and other criteria deemed applicable by the mayor and concerned department heads. (Ord. 14-28, 2014)

3.04.060: EXEMPTIONS TO COMPETITIVE BIDDING REQUIREMENTS:

A. Contracts Not Adaptive To Competitive Bidding: Contracts which by their nature are not adaptive to competitive bidding, such as contracts for maintenance and repairs and contracts for items which may, as a practical matter, only be purchased from a single source, contracts for repairs or additions to equipment owned by the city, which may be more efficiently added to by a certain person or firm, and contracts for additional engineering or professional services specifically related to current or previous

contracts may not be subject to the competitive bidding requirements of this chapter. When the foregoing or similar conditions exist, a written justification for the exemption to competitive bidding shall be approved by the mayor and filed with the purchasing documents.

B. Library Purchases: The purchase of library books, records, tapes, films, publications, periodicals and subscriptions are specifically exempted from the requirements of competitive bidding.

C. Auction, Closeout, Used Equipment, And Bankruptcy Sales: If the mayor determines that supplies, materials or equipment can be purchased by any public auction, closeout sale, used equipment, bankruptcy sale, or inventory reduction sale or other similar sale, and makes a finding that a purchase at any such auction or sale will be made at a cost below the market cost in the community, the mayor may authorize the purchases.

D. Exchanges: The purchasing agent may by agreement exchange supplies, materials, equipment or services with other public agencies, or the purchasing agent may exchange the property or services with private persons or entities when special circumstances exist which indicate that such an exchange would prove more advantageous to the city than a simple purchase for cash.

E. Interlocal Agreements In Letting Of Contracts For Commodities Or Services: The city shall have the power to enter into joint purchase agreements with any or all other public agencies within the state for the purchase of any commodity or service, where it is determined by the mayor to be in the best interest of the city.

F. Emergency Purchases: To qualify as an emergency purchase, the purchase must be ratified, after the emergency, by the department head, the mayor, and the purchasing agent as a qualifying emergency. The department must notify the purchasing agent of the emergency purchase by the end of the first business day following the event.

G. Open Market Procedure: When the formal bidding process is required, but the purchasing agent determines that none of the bidders can give a competitive bid because of the time between the date of the bid and the date required for delivery of the goods or services, then the purchasing agent may utilize the open market procedure to obtain the lowest price for those particular goods or services.

H. State Contract: Goods and services purchased from the Utah state contract are exempt from the competitive bidding requirements. ~~Goods and services that have been competitively bid by another political subdivision of the state of Utah or other government cooperatives or alliances within twelve (12) months may also be exempt from the competitive bidding requirements at the discretion of the purchasing agent, provided the bidding requirements followed by the political subdivision are substantially in compliance with the requirements described in this chapter. (Ord. 14-28, 2014)~~

I. Equivalent Bidding Procedures: Goods and services that have been competitively bid by another political subdivision of the state of Utah, other government cooperatives, alliances, or other entities within twelve (12) months may also be exempt from the competitive bidding requirements at the discretion of the purchasing agent, provided the bidding requirements followed by the political subdivision are substantially in compliance with the requirements described in this chapter. (Ord. 14-28, 2014)

3.04.070: BUDGET OFFICER:

The budget officer or the budget officer's representative shall approve and sign all requisitions in an amount over forty-one hundred thousand dollars (\$5100,000.00) for the purpose of determining the existence of budget authorization for the proposed purchase and an adequate appropriation balance including encumbrances. (Ord. 14-28, 2014)

3.04.080: CITY RETAINS CERTAIN DISCRETION:

Notwithstanding anything in this chapter to the contrary, the city shall retain the discretion to construct public works and other new improvements using its own personnel and equipment without requiring bids as allowed by Utah law. (Ord. 14-28, 2014)

3.04.090: PURCHASES OF REAL PROPERTY:

Negotiations for purchases of real property shall be directed by the mayor or the mayor's representative. ~~No purchases may be made unless it appears as an expenditure item in the city budget and in no case will it be purchased for an amount more than that projected in the budget unless the budget is reopened to revise the projected expenditure item and the mayor so approves.~~ (Ord. 14-28, 2014)

3.04.100: PROHIBITED ACTS; DISCIPLINARY ACTION:

A. Collusion Among Bidders: Any agreement or collusion among bidders or prospective bidders to either buy or sell, in restraint of freedom of competition, be it an agreement to bid a fixed price, or otherwise, shall render the bids of such bidders void and subject them to possible exclusion from future bidding with the city as determined by the mayor to be in the best interest of the city.

B. Purchasing Procedures: No officer or employee of the city shall make any purchase for or on behalf of the city of any material, goods, wares or supplies of any kind whatsoever except through purchasing procedures as specified in this chapter. It shall be a breach of duty on the part of any officer or employee of the city to make any purchase in any manner other than through specified purchasing procedures. If such purchases are made, the city shall not be bound and such officer or employee shall be personally responsible for payment. However, the provisions of this section shall not apply to emergency purchases and other purchases as provided for in this chapter.

C. Disclosure Of Formal Bid Contents: Any disclosure in advance of the opening of bids, of any information contained in the sealed or formal bid, made or permitted by a city officer or employee may render each bid void either by the city or the parties submitting bids. Appropriate disciplinary action shall be taken against both the persons revealing the information and the persons using the information. Notwithstanding anything in this chapter to the contrary, all bids submitted by bidders taking advantage of any information revealed contrary to this section shall at once become null and void.

D. Personal Purchases: Other purchases of supplies or equipment for personal use shall not be permitted and shall be cause for disciplinary action. (Ord. 14-28, 2014)